

NOTE CHANGES MADE BY THE COURT

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

BLUEGEM SECURITY INC.,

Plaintiff,

vs.

TRUSTEER INC. *et al.*,

Defendants.

Case No. CV-11-02682 RSWL (JCG)

~~[TRUSTEER'S PROPOSED]~~ CONFIDENTIALITY ORDER

NOTE CHANGES MADE BY THE COURT.

1. **“Confidential” and “Confidential: Attorneys’ Eyes Only” Defined.** A party producing documents or information as part of its initial disclosures or in response to a discovery request from any other party may designate part or all of the material produced as “Confidential” or “Confidential: Attorneys’ Eyes Only.” A party may designate material as “Confidential” if it constitutes “a trade secret or other confidential research, development, or commercial information” that the party in good faith believes should be protected under Rule 26(c). A party may designate material as “Confidential: Attorneys’ Eyes Only” if it constitutes source code for a party’s past or present products or material that would qualify as a trade secret under the law of California. The parties shall endeavor to avoid designating as material as “Confidential: Attorneys’ Eyes Only” if its disclosure to the opposing party’s decisionmakers is reasonably necessary to allow other parties to assess the merits of this case for purposes of settlement

2. **How to Designate Material as Confidential or Confidential: Attorneys’**

1 **Eyes Only.** A party may designate initial disclosures, responses to requests for admis-
 2 sion, responses to interrogatories, or the answers to a deposition on written questions as
 3 “Confidential” or “Confidential: Attorneys’ Eyes Only” by stamping “CONFIDEN-
 4 TIAL” or “CONFIDENTIAL: ATTORNEYS’ EYES ONLY” on the first page of the
 5 document and by clearly identifying what parts of the document are so designated. A
 6 party may designate a document produced in response to requests for production or as
 7 part of initial disclosures as “Confidential” or “Confidential: Attorneys’ Eyes Only” by
 8 stamping “CONFIDENTIAL” or “CONFIDENTIAL: ATTORNEYS’ EYES ONLY”
 9 on the first page of the document and on each page of the document containing desig-
 10 nated material and, if the party seeks to designate only parts of certain pages, by clearly
 11 identifying what parts of the document are so designated.

12 3. A party may designate part or all of an oral deposition as “Confidential” or
 13 “Confidential: Attorneys’ Eyes Only” by serving a written statement on all other parties
 14 identifying those parts of the deposition that the party seeks to designate by page num-
 15 ber and line number. The designation will take effect as against a party when actually
 16 received by that party. A party may also designate part or all of an oral deposition as
 17 “Confidential” or “Confidential: Attorneys’ Eyes Only” by having the stenographer
 18 stamp “CONFIDENTIAL” or “CONFIDENTIAL: ATTORNEYS’ EYES ONLY” on
 19 the relevant pages of the deposition transcript before that transcript is circulated to the
 20 parties. At the request of any party made on the record at the deposition, a deposition
 21 shall be treated as “CONFIDENTIAL” or “CONFIDENTIAL: ATTORNEYS’ EYES
 22 ONLY” for 30 days following the deposition in order to allow the party to prepare a
 23 written designation under this paragraph.

24 4. **Challenges to Designations.** Any party may challenge any other party’s
 25 designation of material as “Confidential” or “Confidential: Attorneys’ Eyes Only” by
 26 serving written notice of such a challenge on all other parties. If the party who desig-
 27 nated the material disagrees with the challenge, the party who designated the material
 28 must then apply to this Court for an order determining that the material qualifies for

1 protection as “Confidential” or “Confidential: Attorneys’ Eyes Only.” If the party who
 2 designated the material files a motion seeking such an order within ²¹14 days of the chal-
 3 lenge, then the material shall be treated as “Confidential” or “Confidential: Attorneys’
 4 Eyes Only” until the Court rules on the motion. Otherwise, after the ²¹14 days have
 5 passed, the designation will cease to be effective. The burden of proof shall be on the
 6 party seeking to designate material as “Confidential” or “Confidential: Attorneys’ Eyes
 7 Only” to prove that the material qualifies for that designation under the terms of this
 8 order.

9 **5. Effect of a Designation: “Confidential.”** Material designated as “Confidential”
 10 shall be disclosed only to the Court, parties, their attorneys or agents, and per-
 11 sons acting under the direction of their attorneys, including copy services, expert con-
 12 sultants and witnesses, and the like. Such material may not be disclosed to the press or
 13 other unrelated third parties.

14 **6. Effect of a Designation: “Confidential: Attorneys’ Eyes Only.”** Mate-
 15 rial designated as “Confidential: Attorneys’ Eyes Only” shall be disclosed only to the
 16 Court, attorneys of record, and persons acting under the direction of attorneys of record,
 17 including law-firm partners or employees, copy services, expert consultants and wit-
 18 nesses, and the like. No material designated as “Confidential: Attorneys’ Eyes Only”
 19 shall be used for any purpose other than this litigation.

20 **7. Sealing.** For all filings other than briefing on dispositive motions, if a
 21 party wishes to include material designated as “Confidential” or “Confidential: Attor-
 22 neys’ Eyes Only,” that party shall make its filing ^{an application strictly per L.R. 79-5.1,} under seal and shall redact all material
 23 so designated from any publicly accessible version of its filing. For briefing on disposi-
 24 tive motions, if a party wishes to include material designated as “Confidential: Attor-
 25 neys’ Eyes Only,” that party shall make its filing ^{an application strictly per L.R. 79-5.1,} under seal and shall redact all material
 26 so designated from any publicly accessible version of its filing.

27 **8. Privileged Material.** No party waives any claim of privilege by producing
 28 privileged material in discovery, whether advertently or inadvertently. A party may

1 claim that material that has been produced is privileged at any time by serving written
2 notice of the claim on all other parties no later than 60 days before trial. All other par-
3 ties shall then return or destroy all copies of the material in question.

4 It is SO ORDERED.

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6 DATED: August 7, 2011


~~RONALD S.W. LEW~~ JAY C. GANDHAJI
UNITED STATES DISTRICT JUDGE

MAGISTRATE